

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA

IN RE:	}	CHAPTER 13
	}	
Clifford Arnold Swain	}	BANKRUPTCY CASE NO.:
Rena Celeste Swain	}	
	}	<u>15-60929</u>
DEBTOR(S)	}	

MOTION TO SELL AND MOTION TO MODIFY ORDER

COMES NOW your Debtor(s), by counsel, and would move this Court for an Order permitting the Debtor(s) to sell certain real property, and to modify the Order dated August 12, 2019, granting relief from stay, and in support thereof would state as follows:

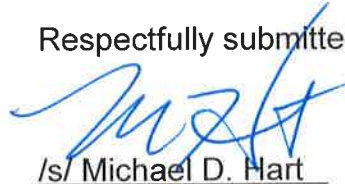
1. The Debtors own a certain parcel of land and improvements, if any, known as 3985 Diamond Hill Road, Moneta, VA 24121.
2. The Debtors have obtained a contract to sell the property for \$150,000.00. A copy of the contract is attached to the original as Exhibit A.
3. That the only liens against the property are Deed(s) of Trust securing the claim(s) of US Bank Trust National Association as Trustee of Cabana Series III Trust, in the unpaid principal amount of \$75,092.52, plus interest, late charge, and a second Deed of Trust securing the claim of Suntrust, which has been paid in full by the Trustee in accordance with the terms of Debtors' confirmed Chapter 13 plan.
4. That the price at which the property is to be sold is more than the aggregate value of all liens on the property.

5. The Debtors propose to pay ordinary and necessary costs of sale, any and all real estate taxes due and owing, the Deed of Trust claim in full on closing, and to direct the closing agent to pay to the Chapter 13 Trustee the full base balance of the plan, presently \$3,060.00, and to pay to counsel for Debtor the sum of \$650.00, which fees are deemed allowed for prosecution of this Motion and for defense of the previous Motion for Relief, with the remaining funds to be paid to the Debtors.
6. The lien claim of Suntrust has been paid in accordance with Debtors' confirmed Plan; Debtors request that the Court issue an Order declaring the Deed of Trust thereon released.
7. Closing on the sale is scheduled on or about October 30, 2019.
8. The estimated payoff of the Chapter 13 case is \$3,060.00. Proceeds are sufficient to pay the Trustee balance in full. Allowed unsecured claims will not receive 100%.
9. That the terms of the sale conform to the ordinary practice.
10. The Court previously issued an Order dated August 12, 2019, which provided relief from stay to US Bank Trust National Association as Trustee of Cabana Series III Trust, should sale not be consummated by September 30, 2019.
11. Debtors has marketed the property to the best of their ability, and have obtained a contract with a closing date 30 days later; the contract provides a sales price sufficient to pay the mortgage claim in full and the remaining balance of Debtors' plan in full, with significant funds remaining.

12. Debtor requests that the Order of August 12, 2019, be modified to grant relief if sale has not been consummated by November 15, 2019.
13. This delay will work no significant prejudice upon the mortgage company, as the sales price is sufficient to pay the claim, with additional interest through November 15, 2019.
14. Foreclosure of the property prior to the closing date of the Contract would work significant prejudice upon Debtors and on the bankruptcy estate.

WHEREFORE, the Debtors, by counsel, would request that the Court enter an Order permitting sale of the above real property in accordance with the terms of the contract of sale, subject to treatment of all proceeds as outlined above, and to Modify the Court's Order dated August 12, 2019, as requested herein, and for such other and further relief as the Court shall deem just.

Respectfully submitted,



/s/ Michael D. Hart

Attorney for Debtor
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Post Office Box 622
Roanoke, VA 24004
540 342-9736

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NOTICE OF HEARING

PLEASE BE ADVISED that a hearing has been scheduled on the enclosed Motion to Sell Property and Motion to Shorten Notice on **October 23, 2019, at 9:30am**, before the United States Bankruptcy Court for the Western District of Virginia, located in US Courthouse, at 1101 Court Street, Lynchburg, Virginia 24504.

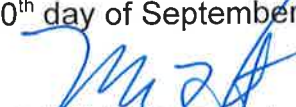
Respectfully submitted,


/s/ Michael D. Hart

Michael D. Hart
Michael D. Hart, P.C.
Post Office Box 622
Roanoke, VA 24004
540 342-9736

CERTIFICATE OF SERVICE

I, Michael D. Hart, certify that I mailed a true copy of the foregoing Notice and Motion for to Sell and Motion to Shorten Notice to; Debtor(s); Trustee (by electronic filing); to US Bank Trust National, c/o Dinh Ngo, Esq., at 312 Marshall Avenue, #800, Laurel, MD 20707, and to all creditors on the 30th day of September, 2019.


/s/ Michael D. Hart